Application No. 09/772,617

REMARKS

Claims 1 to 9 and 67 to 73 are pending in the application. Claims 1 to 9 and 67 have been subjected to an election of species requirement, and claims 8 and 9 have been withdrawn from consideration. Claims 6, 7, 68, and 69 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing particularly to point out and distinctly to claim the subject matter that Applicants regard as the invention. Claims 1 to 7 and 67 to 73 have been objected to as containing non-elected subject matter.

Regarding the rejection of claims 6, 7, 68, and 69 under §112, second paragraph, the Examiner has stated that in these claims, "j" is defined to be "an integer from 0 to about 300", that the limitation in the claim is unclear because one cannot determine what is meant by "about" 300, and that it is requested that Applicants limit the upper limit of "j" to a definite amount that is supported by the specification.

Applicants respectfully traverse this ground for rejection. The descriptive word "about" is not indefinite; rather, the term is clear but flexible and is deemed to be similar in meaning to terms such as "approximately" or "nearly". Ex parte Eastwood, Brindle, and Kolb, 163 U.S.P.Q. 316 (PO Bd. App 1968). Support in the specification for "about 300" can be found at, for example, page 8, line1. Accordingly, Applicants respectfully request reconsideration and withdrawal of this ground for rejection.

Concerning the objection to claims 1 to 7 and 67 to 73 have been objected to as containing non-elected subject matter, Applicants point out that the M.P.E.P. does not provide for requiring an

Applicant to amend a generic claim to encompass only an elected species. Rather, upon allowance of a generic claim, Applicants are entitled to rejoinder of nonelected species claims and allowance thereof as well. See, e.g.:

> M.P.E.P. §806.04(d):"Once a claim that is determined to be generic is allowed, all of the claims drawn to species in addition to the elected species which include all the limitations of the generic claim will ordinarily be obviously allowable in view of the allowance of the generic claim, since the additional species will depend thereon or otherwise include all of the limitations thereof.";
>
> M.P.E.P. §809: "Where, upon examination of an application containing claims to distinct inventions, linking claims are found, restriction can nevertheless be required. . . . The linking claims must be examined with the invention elected, and should any linking claim be allowed, the restriction requirement must be withdrawn. Any claim(s) directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability." (emphasis added)
>
> M.P.E.P. §809.02(a), quoting form paragraph 8.01: "Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an

allowed generic claim as provided by 37 CFR 1.141." (emphasis added)

M.P.E.P. §809.02(c)(B): "When a generic claim is subsequently found to be allowable, and not more than a reasonable number of additional species are claimed, treatment shall be as follows: (1) When *all* claims to each of the additional species are embraced by an allowable generic claim as provided by 37 CFR 1.141, applicant must be advised of the allowable generic claim and that claims drawn to the nonelected species are no longer withdrawn since they are fully embraced by the allowed generic claim." (emphasis in original)

M.P.E.P. §809.04: "If a linking claim is allowed, the examiner must thereafter examine species if the linking claim is generic thereto, or he or she must examine the claims to the nonelected inventions that are linked to the elected invention by such allowed linking claim."

Note also that 37 C.F.R. §1.141(a) states that "Two or more independent and distinct inventions may not be claimed in one national application, except that more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one national application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form (§1.75) or otherwise include all the limitations of the generic claim." Accordingly,

Application No. 09/772,617

Applicants respectfully request complete examination of the generic claim of the instant application (claim 1) and consideration of all of the species claims that are encompassed therein.

In the event the Examiner considers personal contact advantageous to the disposition of this case, she is hereby authorized to call Applicant(s) attorney, Judith L. Byorick, at Telephone Number (585) 423-4564, Rochester, New York.

Respectfully submitted,

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